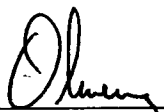


BY: _____



Jointly introduced by _____
and _____
on _____

FILED MAR 11 1997

H.B. 2534

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of boxing and wrestling.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3, Texas Boxing and Wrestling Act (Article 8501-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(9) "Boxing promoter" means a person to be licensed by the commissioner who arranges, advertises, or conducts a boxing contest, match, or exhibition, or shows or causes to be shown in Texas a closed circuit or pay-per-view telecast of any match involving any professional participant whether or not the telecast originates in Texas.

(10) "Telecast" means any visual transmission sent by any means of signal within, into, for or from this State. It includes closed circuit television, pay per view and television broadcast via satellite, cable or any other means.

(11) ~~(10)~~ "Wrestling promoter" means a person to be licensed by ~~[registered with]~~ the commissioner ~~(secretary of state)~~ who arranges, advertises, or conducts a wrestling contest, match, or exhibition, or shows or causes to be shown in Texas a closed circuit or pay-per-view telecast of any match involving any professional participant whether or not the telecast originates in Texas.

(12) ~~(11)~~ "Elimination tournament boxing promoter" means a person licensed by the commissioner ~~(department)~~ who arranges, advertises, or conducts an elimination tournament.

(13) ~~(12)~~ "Elimination tournament" means a boxing contest in which elimination tournament contestants compete in a series of matches until only one contestant remains in each weight category.

(14) ~~(13)~~ "Elimination tournament contestant" means a person who competes in an elimination tournament.

(15) ~~(14)~~ "Championship tournament" means an international, state, regional, or national elimination tournament that allows the winners of another elimination tournament to compete for a championship in each weight category.

(16) ~~(15)~~ "Regional tournament" means an elimination tournament that allows an

1 elimination tournament contestant from outside the immediate area where the tournament is held to
2 compete against local tournament contestants.

3 (17) [(16)] "Local tournament" means an elimination tournament that allows only a
4 resident of this state to compete.

5 (18) "Closed circuit telecast" means any telecast which is not intended to be available for
6 viewing without the payment of a fee, collected for or based upon such event viewed for the
7 privilege of viewing the telecast. Closed circuit telecast includes telecasts of events projected into
8 arenas, stadiums, and places where consumers pay to view the event.

9 (19) "Pay-per-view" means any telecast which is not intended to be available for viewing
10 without the payment of a fee, collected for or based upon such event viewed for the privilege of
11 viewing the telecast. Pay-per-view events include telecasts of events projected into individual
12 consumer homes where consumers pay to view the event.

13 (20) "Gross revenue or gross receipts" means the gross price charged for the sale or lease
14 of telecasting, closed circuit or pay-per-view rights without any deduction for commissions,
15 brokerage fees, production fees, distribution fees, production fees, advertising or other expenses or
16 charges, and shall include the face value of all tickets sold and complimentary tickets redeemed.

17 (21) "Professional wrestling" means any performance of wrestling skills and techniques
18 by two or more professional wrestlers, to which any admission is charged. Participating wrestlers
19 may not be required to use their best efforts in order to win, the winner may have been selected
20 before the performance commences and contestants compete for valuable consideration. Such
21 contests take place in a rope-enclosed ring and are fought in timed rounds.

22 (22) "Ultimate fighting, Ultimate Fighting Championship, or extreme fighting" means any
23 boxing or wrestling match, contest or exhibition, between two or more contestants, with or without
24 protective headgear, who use their hands, without gloves, or their feet, or both, and who compete for
25 a financial prize or any item of pecuniary value, and which match, contest, or exhibition is not
26 recognized by and not sanctioned by any officially recognized state, regional or national boxing or
27 athletic sanctioning authority, or any promotor duly licensed by the commissioner of the Texas
28 Department of Licensing and Regulation.

29 (23) "System operator" "cable operator" or "facility operator" means any person who
30 broadcasts or telecasts a closed circuit telecast or pay per view event regardless of the technology

1 used to transmit or receive the broadcast or telecast.

2 (24) "Event" means any occurrence in which a boxer, wrestler, or kick boxer displays or
3 exhibits his skills, performs or fights.

4 SECTION 2. Section 4 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
5 Statutes), is amended to read as follows:

6 (c) The commissioner is authorized to promulgate rules and regulations and hold
7 administrative hearings in accordance with the Administrative Procedure ~~[and Texas Register]~~ Act
8 ~~(Government Code, Chapter 2001 [e Article 6252-13a, Vernon's Texas Civil Statutes])~~ and Article
9 9100, Vernons Texas Civil Statutes. The commissioner shall promulgate any and all reasonable
10 rules and regulations which may be necessary for the purpose of enforcing the provisions of the
11 Boxing and Wrestling Act. The commissioner is authorized to promulgate rules and regulations
12 governing professional kickboxing contests or exhibitions which shall be fought on the basis of the
13 best efforts of the contestants. The commissioner shall have the power and authority to revoke or
14 suspend the license or permit of any judge, boxer, manager, referee, timekeeper, second, or boxing
15 promoter for violations of any rule or regulation promulgated pursuant to this Act or for the violation
16 of any provision of this Act, and may deny an application for a license when the applicant does not
17 possess the requisite qualifications.

18 ~~[(c) In the conduct of any administrative hearing held pursuant to this Act, the~~
19 ~~commissioner may administer oaths to witnesses, receive evidence, and issue subpoenas and~~
20 ~~subpoenas duces tecum to compel the attendance of witnesses and the production of papers and~~
21 ~~documents related to matters under investigation. Administrative hearings shall be held in~~
22 ~~conformity with the Administrative Procedure and Texas Register Act (Government Code, Chapter~~
23 ~~2001 Article 6252-13a, Vernon's Texas Civil Statutes).]~~

24 SECTION 3. Section 5 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
25 Statutes) is amended to read as follows:

26 ~~[(a)]~~ Any party to the hearing aggrieved by the decision or order of the commissioner may
27 secure judicial review as prescribed by the Administrative Procedure Act, Government Code 2001,
28 subchapter G CONTESTED CASES: JUDICIAL REVIEW and Article 9100, Vernons Texas Civil
29 Statutes. Judicial review shall be by the substantial evidence rule. ~~[thereof in the following manner:~~

30 ~~—(1)—The petition must be filed in a district court of Travis County, Texas, within 30 days~~

1 after the decision or order of the commissioner becomes final.

2 ~~—— (2) — The filing of a petition for review shall not itself stay the effect of the decision or~~
3 ~~order complained of, but the commissioner or the reviewing court may order a stay upon appropriate~~
4 ~~terms and if a stay is so granted no supersedeas bond shall be required.~~

5 ~~—— (3) — Service of process. The petition for review shall be served on the commissioner and~~
6 ~~upon all parties of record in any hearing before the commissioner in respect to the matter for which~~
7 ~~review is sought. After service of such petition upon the commissioner and within the time~~
8 ~~permitted for filing an answer or as soon thereafter as the record is made available to the~~
9 ~~commissioner, the commissioner shall certify to the district court in which such petition is filed the~~
10 ~~record of the proceedings to which the petition refers. The cost of preparing and certifying such~~
11 ~~record shall be paid to the commissioner by the petitioner and taxed as part of the cost in the case,~~
12 ~~to be paid as directed by the court upon final determination of said case.~~

13 ~~(4) — The review of any decision or order of the commissioner shall be tried by the court~~
14 ~~without a jury in the same manner as civil actions generally, but no evidence shall be admissible~~
15 ~~which was not adduced at the hearing on the matter before the commissioner or officially noticed~~
16 ~~in record of such hearing.~~

17 ~~—— (5) — The burden of proof shall be on the plaintiff. The reviewing court may affirm the~~
18 ~~action complained of or remand the matter to the commissioner for further proceedings.~~

19 ~~—— (6) — Appeals from any final judgment may be taken by either party in the manner provided~~
20 ~~for in civil actions generally, but no appeal bond shall be required of the commissioner.]~~

21 SECTION 4. Section 6 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
22 Statutes) is amended to read as follows:

23 (a) A person who violates a provision of this Act or any rule or regulation of the
24 department or the commissioner commits a Class A misdemeanor.

25 (b) Any person who violates any provision of this Act or the rules and regulations of the
26 department or the commissioner may be assessed an administrative [a civil] penalty to be paid to the
27 State of Texas in an amount not to exceed \$1,000 for each such violation [as the court may deem
28 proper].
29

1 (c) Whenever it appears that any person has violated or is threatening to violate any of
2 the provisions of this Act or of the rules and regulations of the department or the commissioner,
3 either the attorney general or the department may cause a civil suit to be instituted either for
4 injunctive relief to restrain such person from continuing the violation or threat of violation or for
5 assessment and recovery of the civil penalty or for both. Venue for such suit shall be in the district
6 courts of Travis County, Texas.

7 (d) Any promoter, facility owner or operator, or system operator who intentionally makes
8 a false or fraudulent report required pursuant to this act shall be guilty of a class A misdemeanor.

9 (e) Any promoter, facility owner or operator or system operator who intentionally fails
10 to make a report of or to pay the taxes as required by this act shall be guilty of a class A
11 Misdemeanor.

12 SECTION 5. Section 8 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
13 Statutes) is amended to read as follows:

14 (a) A person may not act as a boxing or wrestling promoter or an elimination tournament
15 boxing promoter until the person has been licensed by the commissioner under this Act. [~~A person~~
16 ~~state may not act as a wrestling promoter until the person has registered with the secretary of.~~]

17 (b) The application for a boxing or wrestling promoter's license shall be made upon a
18 form furnished by the commissioner and shall be accompanied by the license fee set by the
19 commission. The application for a boxing or wrestling promoter's license shall be accompanied by
20 a surety bond subject to the approval of the commissioner and condition on the payment of the tax
21 imposed under Section 11 of this Act. The commissioner shall fix the sum of the surety bond, but
22 the sum may not be less than \$300.

23 (c) The licensing [~~registration~~] of a wrestling promoter shall be made on a form furnished
24 by the Commissioner [~~secretary of state~~] and shall be accompanied by the licensing [~~registration~~] fee
25 set by the Commissioner [~~secretary of state~~] in an amount reasonably necessary to cover the
26 administrative costs of licensing [~~registration~~]. The licensing [~~registration~~] application shall be
27 accompanied by a \$5,000 surety bond to be filed with the Commissioner [~~secretary of state~~].

28 SECTION 6. Section 9 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
29 Statutes) is amended to read as follows:

30 (b) No person shall act as a professional wrestler, manager of a professional wrestler,

1 referee, judge, timekeeper, or matchmaker until he has been licensed pursuant to this Act.

2 (c) [(b)] The application for a license shall be made upon a form furnished by the
3 commissioner and shall be accompanied by the license fee.

4 (d) It is a violation of this Act to furnish false information on a license application.

5 (e) [(c)] Revenue obtained from license fees shall be deposited to the credit of the
6 General Revenue Fund.

7 SECTION 7. Section 10 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
8 Statutes) is amended to read as follows:

9 (b) The commissioner is authorized to promulgate rules and regulations setting forth
10 reasonable qualifications for an applicant seeking a license as a wrestler, wrestling promoter,
11 wrestling manager, matchmaker, judge or referee.

12 (c) [(b)] The commissioner may after investigation and hearing deny an application
13 for a license when the applicant has failed to meet the established qualifications or has violated any
14 provision of this Act or any rule or regulation issued pursuant to this Act.

15 (d) [(c)] The commissioner may waive any license requirement for an applicant with
16 a valid license from another state with which this state has a reciprocity agreement.

17 SECTION 8. Section 11 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
18 Statutes) is amended to read as follows:

19 Section 11. Gross Tax Receipts or Revenue and Reporting Requirements.

20 (a) LIVE CONTEST HELD IN TEXAS: Any person who conducts a boxing or
21 wrestling match, contest, or exhibition, including an elimination tournament, wherein an admission
22 fee is charged, shall furnish to the department within 21 calender days (including weekends) [72
23 hours] after the termination of the event, a duly verified report on a form furnished by the department
24 showing the number of tickets sold, prices charged, and amount of gross receipts obtained from the
25 event. A cashier's check or money order made payable to the State of Texas in the amount of three
26 percent of the total gross receipts of the event shall be attached to the verified report.

27 (b) CLOSED CIRCUIT TELECASTS: Any person who charges an admission fee for
28 exhibiting a simultaneous telecast of any event regulated by this Act [~~live, spontaneous, or current~~
29 ~~boxing match, contest, or exhibition~~] on a closed circuit telecast in Texas must possess a [~~boxing~~]

1 promoter's license issued pursuant to this Act and must obtain a permit for each closed circuit
2 telecast shown in Texas. The gross receipts tax described in Section 11(a) e [~~herein is applicable to~~
3 ~~said telecast, and the boxing~~] promoter shall furnish to the department within 21 calender days
4 (including weekends) [~~72 hours~~] after the event a duly verified report on a form furnished by the
5 department showing the number of tickets sold, prices charged, and amount of gross receipts
6 obtained from the event. A cashier's check or money order made payable to the State of Texas in
7 the amount of the tax due shall be attached to the verified report. This section applies to telecasts
8 shown in Texas regardless of the origin of the event.

9 (1) Under this section, the promoter shall notify the commissioner of the names
10 and addresses of all facilities to or through which the closed circuit telecast will be shown fourteen
11 (14) days prior to the date of the closed circuit event, and shall provide daily updates to the
12 commissioner of any additions and deletions of facilities.

13 (c) TELEVISION RIGHTS: Any person who sells television broadcast rights of a boxing
14 or wrestling match, contest, or exhibition must possess a boxing or wrestling promoters license
15 issued pursuant to this Act. This section applies to the sale of television rights wherein the event is
16 not simultaneously shown in a pay-per-view format. A three percent tax of the television rights is
17 applicable to such telecasts. However, such tax on television broadcasts shall not exceed \$50,000
18 per event. The boxing or wrestling promotor shall furnish to the Department within 21 calender days
19 (including weekends) after the event is televised, a duly verified report on a form furnished by the
20 department which shows the gross revenue to the promoter for television rights of the event. This
21 section applies only to an event held in Texas. A cashier's check or money order made payable to
22 the State of Texas in the amount of the tax due shall be attached to the verified report.

23 (d) PAY-PER-VIEW EVENTS: A promoter who charges or receives a fee for having an
24 event seen on a pay-per-view telecast that is shown in this state, utilizing a cable television system,
25 satellite dish or any other means of transmitting or receiving the telecast, shall pay three percent of
26 the promotor's gross revenue attributable to the individual's or entity's pay-per-view telecast fees,
27 exclusive of federal, state, or local tax. This tax is applicable to the gross revenue from the telecast
28 derived from Texas subscribers, regardless of the origin of the event. The promotor shall furnish
29 to the Department within 21 calender days (including weekends) after the event is broadcast, a duly

1 verified report on a form furnished by the department which shows the number of orders sold and
2 the price per order derived from viewership in Texas. A cashier's check or money order made
3 payable to the State of Texas in the amount of the tax due shall be attached to the verified report.

4 (1) Each system operator, cable operator, or facility operator whose facilities are
5 utilized to telecast an event under this Act shall, within 15 calendar days (including weekends)
6 following the date of the telecast, file a report with the Commissioner stating the number of orders
7 sold in Texas and the price per order.

8 (2) If an event is sold by the number of rounds fought, each system operator, cable
9 operator, or facility operator shall report to the Commissioner the price per round, the number of
10 orders sold in Texas and the number of rounds fought.

11 (3) System operators, cable operators, or facility operators are not responsible
12 for payment of taxes under this Act.

13 (e) The commissioner shall provide forms for reporting under this section.

14 (f) The department may audit reports filed under this section.

15 (g) {~~(c)~~} Revenue obtained from the gross receipts taxes imposed under this section
16 shall be deposited to the credit of the General Revenue Fund.

17 [~~(d) The department may audit a report filed under Subsection (a) of this section made by~~
18 ~~a person conducting an elimination tournament under this section.]~~

19 SECTION 8. New Article 3, Section 21 of the Texas Boxing Act (Article 8501-1, Vernon's
20 Texas Civil Statutes) is added to read as follows:

21 ARTICLE 3 Prohibitions

22 SECTION 21.

23 (a) Ultimate or extreme fighting is prohibited in the State of Texas.

24 (b) Anyone who promotes or participates in ultimate fighting, or anyone who serves as
25 an agent, principal partner, publicist, vendor, producer, referee, or contractor of or for ultimate
26 fighting is guilty of a class "A" misdemeanor.

27 (c) Any medical personnel who administers to, treats or assists any participants of
28 ultimate or extreme fighting shall not be subject to the provisions of this section.

29 (d) No license or permit will be issued for any contests known as "ultimate fighting" or
30 any activities similar in nature. For purposes of this Act, "ultimate fighting" shall mean a contest

1 or bout whereby any part of the contestant's body may be used as a weapon or any means of fighting
2 may be used with the specific purpose to intentionally injure the other contestants in such a manner
3 that they may not defend themselves and in which there is no referee. No person, partnership,
4 organization, corporation, limited liability company or association shall conduct, compete or
5 otherwise participate in any contest or bout as defined in this section and Section 3.

6 SECTION 9. This Act takes effect September 1, 1997.

7 SECTION 10. The importance of this legislation and the crowded condition of the calendars
8 in both houses create an emergency and an imperative public necessity that the constitutional rule
9 requiring bills to be read on three several days in each house be suspended, and this rule is hereby
10 suspended.

HOUSE COMMITTEE REPORT

1st Printing

By Oliveira, Wilson

H.B. No. 2538

Substitute the following for H.B. No. 2538:

By Wilson

C.S.H.B. No. 2538

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of boxing and wrestling, the imposition
3 of a tax on the sale of television rights, closed circuit
4 telecasting rights, and pay-per-view telecasting rights for boxing
5 and wrestling events, and the prohibition of certain types of
6 fighting.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Section 3, Texas Boxing and Wrestling Act
9 (Article 8501-1, Vernon's Texas Civil Statutes), is amended by
10 amending Subdivisions (9) and (10) and adding Subdivisions
11 (17)-(26) to read as follows:

12 (9) "Boxing promoter" means a person to be licensed by
13 the department who arranges, advertises, or conducts a boxing
14 contest, match, or exhibition or shows or causes to be shown in
15 this state a closed-circuit or pay-per-view telecast of an event
16 involving a professional boxer regardless of whether the telecast
17 originates in this state.

18 (10) "Wrestling promoter" means a person to be
19 registered with the secretary of state who arranges, advertises, or
20 conducts a wrestling contest, match, or exhibition or shows or
21 causes to be shown in this state a closed-circuit or pay-per-view
22 telecast of an event involving a professional wrestler regardless
23 of whether the telecast originates in this state.

24 (17) "Telecast" means a visual transmission sent by

1 any type of signal or other means from one location to another.
2 The term includes closed-circuit television, pay-per-view, and
3 television broadcast via satellite, cable, or any other means.

4 (18) "Closed-circuit telecast" means a telecast of an
5 event exhibited in arenas, stadiums, or other locations where
6 consumers pay admission to view the event.

7 (19) "Pay-per-view" means a telecast of an event to be
8 received by an individual telecast purchaser's television set for
9 which telecast purchasers pay to view the event.

10 (20) "Gross receipts" means the gross price charged,
11 including the face value of all tickets sold and complimentary
12 tickets redeemed, less sales tax for the sale or lease of
13 telecasting, closed-circuit, or pay-per-view rights, without any
14 deduction for commissions, brokerage fees, production fees,
15 distribution fees, advertising fees, or other expenses or charges.

16 (21) "Ultimate or extreme fighting" means any boxing,
17 wrestling, or similar match, contest, or exhibition between two or
18 more contestants who use their hands, feet, or both that is not
19 recognized or sanctioned by an officially recognized state,
20 regional, or national boxing or athletic authority or by a promoter
21 licensed by the commissioner. The term includes a fighting contest
22 in which any part of the contestant's body may be used as a weapon
23 or any means of fighting may be used with the specific purpose to
24 intentionally injure the other contestants in such a manner that
25 they may not defend themselves, and in which there is no referee.

26 (22) "System operator," "cable operator," or "facility
27 operator" means a person who broadcasts or telecasts a

1 closed-circuit telecast or pay-per-view telecast regardless of the
2 technology used to transmit or receive the broadcast or telecast.

3 (23) "Event" means an occurrence in which a
4 professional boxer or professional wrestler displays or exhibits
5 boxing or wrestling skills or performs or fights as a boxer or
6 wrestler.

7 (24) "Professional wrestler" means a person to be
8 licensed by the department who competes for a money prize, purse,
9 or compensation in a boxing or wrestling contest, exhibition, or
10 match held within the State of Texas.

11 (25) "Professional boxing manager" means a person to
12 be licensed by the commissioner who contracts or otherwise enters
13 into an agreement with a boxer to directly or indirectly control or
14 administer the boxing affairs of the boxer for compensation.

15 (26) "Professional wrestling manager" means a person
16 to be licensed by the commissioner who contracts or otherwise
17 enters into an agreement with a wrestler to directly or indirectly
18 control or administer the wrestling affairs of the wrestler for
19 compensation.

20 SECTION 2. Section 4(c), Texas Boxing and Wrestling Act
21 (Article 8501-1, Vernon's Texas Civil Statutes), is amended to read
22 as follows:

23 (c) The commissioner is authorized to promulgate rules and
24 regulations and hold administrative hearings in accordance with
25 Chapter 2001, Government Code, and Article 9100, Revised Statutes
26 [the-Administrative-Procedure-and--Texas--Register--Act---{Article
27 6252-13a7--Vernon's-Texas-Civil-Statutes}]. The commissioner shall

promulgate any and all reasonable rules and regulations which may be necessary for the purpose of enforcing the provisions of this Act. The commissioner is authorized to promulgate rules and regulations governing professional kickboxing contests or exhibitions, which shall be fought on the basis of the best efforts of the contestants. The commissioner shall have the power and authority to revoke or suspend the license or permit of any judge, professional boxer, professional wrestler, professional boxing manager, professional wrestling manager, referee, timekeeper, second, wrestling promoter, or boxing promoter for violations of any rule or regulation promulgated pursuant to this Act or for the violation of any provision of this Act, and may deny an application for a license when the applicant does not possess the requisite qualifications.

SECTION 3. Section 5, Texas Boxing and Wrestling Act (Article 8501-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. JUDICIAL REVIEW. (a) Any party to the hearing aggrieved by the decision or order of the commissioner may secure judicial review thereof in the ~~[following]~~ manner provided by Article 9100, Revised Statutes [÷

~~[(1)--The petition must be filed in a district court of Travis County, Texas, within 30 days after the decision or order of the commissioner becomes final.]~~

~~[(2)--The filing of a petition for review shall not itself stay the effect of the decision or order complained of, but the commissioner or the reviewing court may order a stay upon~~

1 appropriate--terms--and-if-a-stay-is-so-granted-no-supersedeas-bond
2 shall-be-required-

3 [(3) --Service-of--process.---The--petition--for--review
4 shall--be-served-on-the-commissioner-and-upon-all-parties-of-record
5 in-any-hearing-before-the-commissioner-in-respect-to-the-matter-for
6 which-review-is-sought.---After-service-of-such--petition--upon--the
7 commissioner--and-within-the-time-permitted-for-filing-an-answer-or
8 as--soon--thereafter--as--the--record--is--made--available--to--the
9 commissioner, the commissioner shall certify to the district--court
10 in--which--such--petition-is-filed-the-record-of-the-proceedings-to
11 which-the-petition-refers.---The-cost-of--preparing--and--certifying
12 such-record-shall-be-paid-to-the-commissioner-by-the-petitioner-and
13 taxed--as--part--of-the-cost-in-the-case, to-be-paid-as-directed-by
14 the-court-upon-final-determination-of-said-cause-

15 [(4) --The-review--of--any--decision--or--order--of--the
16 commissioner-shall-be-tried-by-the-court-without-a-jury-in-the-same
17 manner--as--civil--actions--generally, but--no--evidence--shall-be
18 admissible-which-was-not-adduced--at--the--hearing--on--the--matter
19 before--the--commissioner--or--officially-noticed-in-record-of-such
20 hearing-

21 [(5) --The-burden-of-proof-shall-be--on--the--plaintiff.
22 The--reviewing--court-may-affirm-the-action-complained-of-or-remand
23 the-matter-to-the-commissioner-for-further-proceedings-

24 [(6) --Appeals-from-any-final-judgment-may-be--taken--by
25 either-party-in-the-manner-provided-for-in-civil-actions-generally,
26 but-no-appeal-bond-shall-be-required-of-the-commissioner].

27 SECTION 4. Section 6, Texas Boxing and Wrestling Act

1 (Article 8501-1, Vernon's Texas Civil Statutes), is amended to read
2 as follows:

3 Sec. 6. PENALTIES. (a) A person who violates a provision
4 of this Act or any rule or regulation of the department or
5 commissioner commits a Class B [A] misdemeanor.

6 (b) Any person who violates any provision of this Act or the
7 rules and regulations of the department or commissioner may be
8 assessed an administrative [~~a-civil~~] penalty to be paid to the
9 State of Texas in an amount not to exceed \$10,000 [~~\$1,000~~] for each
10 such violation [~~as--the-court-may-deem-proper~~].

11 (c) Whenever it appears that any person has violated or is
12 threatening to violate any of the provisions of this Act or of the
13 rules and regulations of the department or commissioner, either the
14 attorney general or the department may cause a civil suit to be
15 instituted either for injunctive relief to restrain such person
16 from continuing the violation or threat of violation or for
17 assessment and recovery of the civil penalty or for both. Venue
18 for such suit shall be in the district courts of Travis County,
19 Texas.

20 SECTION 5. Section 8, Texas Boxing and Wrestling Act
21 (Article 8501-1, Vernon's Texas Civil Statutes), is amended by
22 amending Subsections (a)-(c) and adding Subsection (j) to read as
23 follows:

24 (a) A person may not act as a boxing or wrestling promoter
25 or an elimination tournament boxing promoter until the person has
26 been licensed by the department under this Act. [~~A-person-may--not~~
27 ~~act--as--a--wrestling-promoter-until-the-person-has-registered-with~~

~~the-secretary-of-state-]~~

(b) The application for a boxing promoter's or wrestling promoter's license shall be made upon a form furnished by the commissioner and shall be accompanied by the license fee set by the commission. The application for a boxing promoter's or wrestling promoter's license shall be accompanied by a surety bond subject to the approval of the commissioner and conditioned on the payment of the tax imposed under Sections [~~Section~~] 11, 11A, 11B, and 11C of this Act. The commissioner shall fix the sum of the surety bond, but the sum may not be less than \$300.

(c) The licensing [~~registration~~] of a wrestling promoter shall be made on a form furnished by the commissioner [~~secretary of-state~~] and shall be accompanied by the licensing [~~registration~~] fee set by the commissioner [~~secretary-of--state~~] in an amount reasonably necessary to cover the administrative costs of licensing [~~registration~~]. The license [~~registration~~] application shall be accompanied by a \$5,000 surety bond to be filed with the commissioner [~~secretary-of-state~~].

(j) A boxing or wrestling promoter may not knowingly or intentionally make a false or fraudulent report required under this Act.

SECTION 6. Section 9, Texas Boxing and Wrestling Act (Article 8501-1, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) No person shall act as a professional boxer, professional wrestler, [~~manager-of-a~~] professional boxing manager,

1 professional wrestling manager [~~boxer~~], referee, judge, second,
2 timekeeper, or matchmaker until he has been licensed pursuant to
3 this Act.

4 (d) It is a violation of this Act to furnish false
5 information on a license application.

6 SECTION 7. Section 10(a), Texas Boxing and Wrestling Act
7 (Article 8501-1, Vernon's Texas Civil Statutes), is amended to read
8 as follows:

9 (a) The commissioner is authorized to promulgate rules and
10 regulations setting forth reasonable qualifications for an
11 applicant seeking a license as a boxing promoter, wrestling
12 promoter, professional boxing manager, professional wrestling
13 manager, matchmaker, professional boxer, professional wrestler,
14 judge, referee, second, or timekeeper.

15 SECTION 8. Article 1, Texas Boxing and Wrestling Act
16 (Article 8501-1, Vernon's Texas Civil Statutes), is amended by
17 amending Section 11 and adding Sections 11A, 11B, 11C, 12, and 13
18 to read as follows:

19 Sec. 11. LIVE EVENT [~~GROSS--RECEIPTS~~] TAX. (a) A tax is
20 imposed on any [Any] person who conducts an event [a-boxing--match,
21 contest,--or--exhibition], including an elimination tournament,
22 wherein an admission fee is charged. The tax is imposed at a rate
23 of three percent of the total gross receipts obtained from the
24 event.

25 (b) The person shall furnish to the department, not later
26 than the 21st day after the date on which the event terminates,
27 [~~within--72--hours--after--the--termination--of--the--event~~] a duly

verified report on a form furnished by the department showing the number of tickets sold, prices charged, and amount of gross receipts obtained from the event. A cashier's check or money order made payable to the State of Texas in the amount of the tax imposed by this section on [three-percent-of] the total gross receipts of the event shall be attached to the verified report.

Sec. 11A. CLOSED-CIRCUIT TELECAST PERMIT AND TAX.

(a) ~~[(b)]~~ Any person who charges an admission fee for exhibiting a simultaneous telecast of any event ~~[live, spontaneous, or current boxing--match, contest, or exhibition]~~ on a closed circuit telecast must possess a boxing promoter's license or a wrestling promoter's license issued pursuant to this Act and must obtain a permit for each closed circuit telecast shown in Texas.

(b) A tax is imposed on a person who charges an admission fee for exhibiting a simultaneous telecast of an event on a closed-circuit telecast shown in Texas. The tax is imposed at a rate of three percent of the gross receipts obtained from the exhibition of the telecast in Texas.

(c) The person ~~[gross--receipts--tax--described--in--Section 11(a)--herein--is--applicable--to--said--telecast,--and--the--boxing promoter]~~ shall furnish to the department, not later than the 21st day after the date on which the event is telecast, [within-72 hours-after-the-event] a duly verified report on a form furnished by the department showing the number of tickets sold, prices charged, and amount of gross receipts obtained from the event. A cashier's check or money order made payable to the State of Texas in the amount of the tax imposed by this section on the total gross

1 receipts subject to the tax [due] shall be attached to the verified
2 report.

3 (d) The promoter shall notify the commissioner of the names
4 and addresses of all facilities in Texas to or through which the
5 closed-circuit telecast will be shown not later than the 14th day
6 before the date of the closed-circuit event and shall provide daily
7 updates to the commissioner of any additions and deletions of
8 facilities in Texas to which the event will be telecast.

9 (e) This section applies to telecasts shown in Texas
10 regardless of the location of the event.

11 Sec. 11B. TELEVISION RIGHTS TAX. (a) Any person who sells
12 television broadcast rights of an event held in Texas must possess
13 a boxing or wrestling promoter's license issued under this Act.

14 (b) A tax is imposed on a person who sells television
15 broadcast rights of an event held in Texas. The tax imposed is an
16 amount equal to the lesser of:

17 (1) three percent of the gross receipts obtained by
18 the person from the sale of the television broadcast rights; or

19 (2) \$50,000.

20 (c) The person shall furnish to the department, not later
21 than the 21st day after the date on which the event is televised, a
22 duly verified report on a form furnished by the department which
23 shows the gross receipts of the person from the sale of the
24 television broadcast rights of the event. A cashier's check or
25 money order made payable to the State of Texas in the amount of the
26 tax imposed under this section shall be attached to the verified
27 report.

1 (d) This section applies only to an event held in Texas.

2 (e) This section applies only to the sale of television
3 broadcast rights in which the event is not simultaneously shown in
4 a pay-per-view telecast.

5 Sec. 11C. PAY-PER-VIEW PERMIT AND TAX. (a) Any person who
6 sells pay-per-view telecast rights for an event that is shown in
7 Texas must possess a boxing or wrestling promoter's license issued
8 under this Act and must obtain a permit for each pay-per-view
9 telecast shown in Texas.

10 (b) A tax is imposed on a person who sells pay-per-view
11 telecast rights for an event that is shown in Texas. The tax
12 imposed is an amount equal to the lesser of:

13 (1) three percent of the gross receipts obtained by
14 the person from the sale of the pay-per-view telecast rights; or

15 (2) \$50,000.

16 (c) The person shall furnish to the department, not later
17 than the 21st day after the date on which the event is telecast, a
18 duly verified report on a form furnished by the department which
19 shows the gross receipts of the person from the sale of the
20 pay-per-view telecast rights of the event, including the number of
21 pay-per-view orders sold in Texas and the price of each order. A
22 cashier's check or money order made payable to the State of Texas
23 in the amount of the tax imposed under this section shall be
24 attached to the verified report.

25 (d) The tax imposed by this section is applicable to the
26 gross receipts from the sale of the telecast rights derived from
27 Texas subscribers, regardless of the location of the event.

1 Sec. 12. CLOSED-CIRCUIT AND PAY-PER-VIEW TELECAST REPORTS BY
2 SYSTEM, CABLE, AND FACILITY OPERATORS. (a) Each system operator,
3 cable operator, or facility operator whose facilities are used to
4 telecast an event as a closed-circuit or pay-per-view telecast
5 shall, not later than the 15th day after the date of the telecast,
6 file a report with the commissioner stating the number of orders to
7 view the event sold in Texas and the price per order.

8 (b) If the telecast of an event is sold by the number of
9 rounds fought, each system operator, cable operator, or facility
10 operator shall report to the commissioner the price per round, the
11 number of orders sold in Texas, and the number of rounds fought.

12 (c) A facility operator, cable operator, or system operator
13 may not intentionally make a false or fraudulent report required
14 under this Act.

15 (d) A system operator, cable operator, or facility operator
16 is not responsible for payment of taxes under this Act.

17 Sec. 13. TAX ADMINISTRATION. (a) The commissioner shall
18 provide forms for reporting under Sections 11, 11A, 11B, 11C, and
19 12 of this Act.

20 (b) The department may audit reports filed under Sections
21 11, 11A, 11B, 11C, and 12 of this Act.

22 (c) The commissioner by rule shall determine a specified
23 percentage of the total revenues obtained from the taxes imposed by
24 Sections 11, 11A, 11B, and 11C of this Act not to exceed the lesser
25 of 20 percent of the total annual revenues or \$50,000 annually to
26 be deposited into a separate account in the general revenue fund to
27 be known as the Texas Boxing and Wrestling Sports Fund. The

1 remainder of the revenue [Revenue] obtained from the [gross
2 ~~receipts~~] taxes imposed by [under] this Act [section] shall be
3 deposited to the credit of the General Revenue Fund.

4 (d) The commissioner shall adopt rules for awarding grants
5 from the Texas Boxing and Wrestling Sports Fund. [~~The--department~~
6 ~~may--audit-a-report-filed-under-Subsection-(a)-of-this-section-made~~
7 ~~by--a--person--conducting--an--elimination--tournament--under--this~~
8 ~~section--]~~

9 SECTION 9. The Texas Boxing and Wrestling Act (Article
10 8501-1, Vernon's Texas Civil Statutes) is amended by adding Article
11 3 to read as follows:

12 ARTICLE 3. ULTIMATE FIGHTING PROHIBITED

13 Sec. 21. ULTIMATE FIGHTING. (a) Ultimate or extreme
14 fighting is prohibited in the State of Texas.

15 (b) A person may not promote, sponsor, attend, or
16 participate in ultimate or extreme fighting or serve as an agent,
17 principal partner, publicist, vendor, producer, referee, or
18 contractor of or for ultimate or extreme fighting.

19 (c) This section does not apply to a health care
20 professional who administers to, treats, or assists in the
21 treatment of a participant in ultimate or extreme fighting.

22 (d) A license or permit may not be issued by the state or
23 any governmental entity for a contest of "ultimate fighting" or
24 "extreme fighting" or a similar contest.

25 SECTION 10. Section 4(e), Texas Boxing and Wrestling Act
26 (Article 8501-1, Vernon's Texas Civil Statutes), is repealed.

27 SECTION 11. (a) Except as provided by Subsections (c) and

1 (d), this Act takes effect September 1, 1997.

2 (b) The commissioner of licensing and regulation shall adopt
3 rules for licensing professional wrestlers, professional wrestling
4 managers, and wrestling promoters under the Texas Boxing and
5 Wrestling Act (Article 8501-1, Vernon's Texas Civil Statutes), as
6 amended by this Act, not later than December 1, 1997.

7 (c) A person who is required to be licensed as a
8 professional wrestler, professional wrestling manager, wrestling
9 promoter, or boxing promoter because of the changes in law made by
10 this Act to the Texas Boxing and Wrestling Act (Article 8501-1,
11 Vernon's Texas Civil Statutes) is not required to obtain a license
12 until March 1, 1998.

13 (d) The taxes imposed on the sale of television and
14 pay-per-view rights by Sections 11B and 11C, Texas Boxing and
15 Wrestling Act (Article 8501-1, Vernon's Texas Civil Statutes), as
16 added by this Act, apply only to boxing and wrestling events held
17 on or after January 1, 1998.

18 SECTION 12. The importance of this legislation and the
19 crowded condition of the calendars in both houses create an
20 emergency and an imperative public necessity that the
21 constitutional rule requiring bills to be read on three several
22 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable James E. "Pete" Laney
Speaker of the House of Representatives

4/14/97
(date)

Sir:

We, your COMMITTEE ON LICENSING AND ADMINISTRATIVE PROCEDURES

to whom was referred HB 2538 have had the same under consideration and beg to report back with the recommendation that it

- () do pass, without amendment.
() do pass, with amendment(s).
(X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
(X) yes () no A fiscal note was requested.
() yes (X) no A criminal justice policy impact statement was requested.
() yes (X) no An equalized educational funding impact statement was requested.
() yes (X) no An actuarial analysis was requested.
() yes (X) no A water development policy impact statement was requested.
() yes (X) no A tax equity note was requested.
() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Wilson, Chair	X			
Kubiak, Vice-chair	X			
Goolsby	X			
Haggerty	X			
Hamric	X			
Jones, D.				X
Pickett				X
Torres	X			
Yarbrough	X			

Total
7 aye
0 nay
0 present, not voting
2 absent

Ron Wilson
CHAIR

BILL ANALYSIS

LICENSING & ADMINISTRATIVE PROCEDURES

C.S.H.B. 2538

By: Oliveira

4-14-97

Committee Report (Substituted)

BACKGROUND

Other states are generating large revenues through a 3-percent fee paid by boxing and wrestling promoters who broadcast their sporting events on pay-per-view television. The same gains could be realized on pay-per-view fees paid by boxing and wrestling promoters who broadcast their events in Texas. Further, a 3-percent tax on boxing and wrestling events that are not broadcast would also put significant revenues into Texas' coffers.

With the growing worldwide popularity of "ultimate fighting" and other types of sports in which bodily harm is the goal of the sport, Texas should take a stand against the sport and allowing it to be broadcast in the state.

PURPOSE

As proposed, C.S.H.B. 2538 amends the Texas Boxing and Wrestling Act to allow the state to collect 3 percent of pay-per-view boxing and wrestling telecasts from event promoters while outlawing any telecasts of ultimate fighting and moving the regulation of boxing from the Secretary of State's Office to the Department of Licensing and Regulation. This Act also allows the state to charge 3 percent on the gross revenues of a wrestling or boxing event which is not televised.

RULEMAKING AUTHORITY

It is the committee's opinion that additional rulemaking authority is granted in SECTION 8 of the bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3, Texas Boxing and Wrestling Act (Article 8501-1, Vernon's Texas Civil Statutes) to change the definitions of the following:

(9) "Boxing promoter" means a person licensed by the commissioner who arranges, advertises, or conducts a boxing contest, match, or exhibition, or shows or causes to be shown in Texas a closed circuit or pay-per-view telecast of any match involving any professional participant whether or not the telecast originates in Texas.

(10) "Wrestling promoter" means a person to be licensed by the commissioner who arranges, advertises, or conducts a wrestling contest, match, or exhibition, or shows or causes to be shown in Texas a closed circuit or pay-per-view telecast of any match involving any professional participant whether or not the telecast originates in Texas.

(17) "Telecast" means a visual transmission sent by any type of signal from one location to another. The term includes closed-circuit television, pay-per-view, and television broadcast via satellite, cable, or any other means.

(18) "Closed-circuit telecast" means a telecast of an event exhibited in arenas, stadiums, or other locations where consumers pay admission to view the event.

(19) "Pay-per-view" means a telecast of an event to be received by an individual telecast purchaser's television set for which telecast purchasers pay to view the event.

(20) "Gross receipts" means the gross price charged, including the face value of all tickets sold and complimentary tickets redeemed, less sales tax for the sale or lease of telecasting, closed-circuit, or pay-per-view rights, without any deduction for commissions, brokerage fees, production fees, distribution fees, advertising fees, or other expenses or charges.

(21) "Ultimate or extreme fighting" means any boxing, wrestling or similar match, contest, or exhibition between two or more contestants who use their hands, feet, or both that is not recognized or sanctioned by an officially recognized state, regional, or national boxing or athletic authority or by a promoter licensed by the commissioner. The term includes a fighting contest in which any part of the contestant's body may be used as a weapon or any means of fighting may be used with the specific purpose to intentionally injure the other contestants in such a manner that they may not defend themselves, and in which there is no referee.

(22) "System operator," "cable operator," or "facility operator" means a person who broadcasts or telecasts a closed-circuit telecast or pay-per-view telecast regardless of the technology used to transmit or receive the broadcast or telecast.

(23) "Event" means an occurrence in which a professional boxer or professional wrestler displays or exhibits boxing or wrestling skills or performs or fights as a boxer or wrestler.

(24) "Professional wrestler" means a person to be licensed by the department who competes for a money prize, purse, or compensation in a boxing or wrestling contest, exhibition, or match held within the State of Texas.

(25) "Professional boxing manager" means a person to be licensed by the commissioner who contracts or otherwise enters into an agreement with a boxer to directly or indirectly control or administer the boxing affairs of the boxer for compensation.

(26) "Professional wrestling manager" means a person to be licensed by the commissioner who contracts or otherwise enters into an agreement with a wrestler to directly or indirectly control or administer the wrestling affairs of the wrestler for compensation.

SECTION 2. Section 4(c), Texas Boxing and Wrestling Act (Article 8501-1 Vernon's Texas Civil Statutes).

(c) The commissioner is authorized to hold administrative hearings in accordance with the Administrative Procedure Act. The commissioner will have the authority to declare violations on any professional kickboxing contests or exhibitions which are not fought on the basis of the best efforts of the contestants. The commissioner shall also have the power to and authority to revoke or suspend the license of any judge, boxer, wrestler, wrestling promoter, manager, referee, timekeeper, second, or boxing promoter for violations of this Act. The commissioner may also deny an application for license when the applicant does not possess the requisite qualifications.

SECTION 3. Amends Section 5 of the Texas Boxing Act to the following: Decisions of the commissioner may secure judicial review as prescribed by the Administrative Procedure Act. Judicial review shall be by the substantial evidence rule.

SECTION 4. Section 6 of the Texas Boxing Act is amended to the following:

(a) A person who violates this provision of the Act or any rule or regulation of the department or the commissioner commits a Class B misdemeanor.

(b) Any person violating the Act or the rules and regulations of the department or commissioner may be assessed a penalty to be paid to the State of Texas in an amount not to exceed \$10,000 for each violation.

(c) When it appears that the provisions of the Act or commissioner have been violated or a person is threatening to violate them, the attorney general or the department may bring about a civil for injunctive relief to restrain such person from continuing the violation or threat of violation or for the assessment and recovery of the civil penalty or for both. Venue for such suit will be in the Travis County district courts.

SECTION 5. Amends Section 8 of the Texas Boxing Act as follows:

(a) A person may not act as a boxing or wrestling promoter unless the person has been licensed by the commission under this Act.

(b) The commissioner shall furnish a form for a promoter's license application. An application for a license shall be accompanied by a surety bond subject to the commissioner's approval and condition on the payment of the tax imposed under Section 11 of this Act. The commissioner shall set the sum of the surety bond, but the sum may not be less than \$300.

(c) The commissioner shall furnish a form for a wrestling promoter's license. A license fee shall be assessed to reasonably cover the administrative costs of licensing. The licensing application shall be accompanied by a \$5,000 surety bond to be filed with the commissioner.

(j) A boxing or wrestling promoter may not knowingly or intentionally make a false or fraudulent report required under this Act.

SECTION 6. Amends Section 9 of the Texas Boxing Act as follows:

(d) It is a violation of the Act to furnish false information on a license application.

SECTION 7. Amends Section 10 (A) of the Texas Boxing and Wrestling Act as follows:

(a) The commissioner may establish rules and regulations setting reasonable qualifications for applicants seeking licenses as boxers, wrestlers, boxing or wrestling promoters, wrestling and boxing managers, matchmakers, judges, seconds, timekeepers or referees.

SECTION 8. Amends Section 11 of the Texas Boxing Act by adding Sections 11 A, 11B, 11C, 12 and 13 as follows:

Sec. 11(a) LIVE EVENT TAX; A tax of three percent of the total gross receipts will be charged to any person who conducts an event, including and elimination tournament, wherein an admission fee is charged.

(b) Any person who conducts a boxing or wrestling match, event, tournament etc.. where admission is charged has 21 days (including weekends) after the event to furnish the department with a duly verified report showing the number of tickets sold, prices charged and amount of gross receipts obtained from the event. A cashier's check or money order made payable to the State of Texas in the amount of three percent of the total gross receipts of the event shall be attached to the verified report.

Sec. 11A. CLOSED CIRCUIT TELECAST PERMIT AND TAX: (a) Any person who charges an admission fee for exhibiting a simultaneous telecast of any event regulated by this Act on a closed circuit telecast must possess a promoter's license and must obtain a permit for each closed circuit telecast shown in Texas.

(b) A three percent tax of the gross receipts obtained from the exhibition of the telecast in Texas is imposed on a person who charges an admission fee for exhibiting a simultaneous telecast of an event on a closed-circuit telecast shown in Texas.

(c) The promoter has 21 days (including weekends) to provide a duly verified report on a form furnished by the department showing the number of tickets sold, prices charged and amount of gross receipts obtained from the event. A cashier's check in the amount of 3 percent of the gross

receipts shall be attached to the verified report.

(d) The promoter shall notify the commissioner of the names and addresses of all facilities to or through which the closed circuit telecast will be shown fourteen (14) days prior to the date of the closed circuit event, and shall provide daily updates to the commissioner of any additions and deletions of facilities.

(e) This section applies to telecasts shown in Texas regardless of the location of the event.

Sec. 11B. TELEVISION RIGHTS TAX: (a) Anyone who sells television broadcast rights of a boxing or wrestling match, contest, or exhibition must possess a boxing or wrestling promoters license.

(b) A tax is imposed on a person who sells television broadcast rights of an event held in Texas. The tax imposed is an amount equal to the lesser of:

- (1) three percent of the gross receipts obtained by the person from the sale of the television broadcast rights; or
- (2) \$50,000.

(c) The person has 21 days after a televised event to pay state tax and provide the commissioner with a duly verified report which shows gross revenue to the promoter for television rights of the events. This section applies only to an event held in Texas.

11C. PAY-PER-VIEW EVENTS: Any person sells an event seen on a pay per view telecast that is shown in this state must possess a boxing or wrestling promoter's license issued under this Act and must obtain a permit for each pay-per-view telecast shown in Texas.

(b) A tax is imposed on a person who sells pay-per-view telecast rights for an event that is shown in Texas. The tax imposed is an amount equal to the lesser of:

- (1) three percent of the gross receipts obtained by the person from the sale of the pay-per-view telecast rights; or
- (2) \$50,000.

(c) The person must furnish the department within 21 days after the day of the fight a report which shows the gross receipts of the person from the sale of the pay-per-view telecast rights of the event, including the number of pay-per-view orders sold in Texas and the price of each order.

(d) The tax imposed by this section is applicable to the gross receipts from the sale of the telecast rights derived from Texas subscribers, regardless of the location of the event.

Sec. 12. CLOSED-CIRCUIT AND PAY PER VIEW TELECAST REPORTS BY SYSTEM, CABLE AND FACILITY OPERATORS. (a) Each system operator, cable operator, or facility operator whose facilities are utilized to telecast an event under this Act shall within 15 days, file a report with the commissioner stating the number of orders sold in Texas and the price per order.

(b) If the event is sold by the number of rounds fought, each system operator, cable operator or facility operator shall report to the commissioner the price per round, the number of orders sold in Texas and the number of rounds fought.

(c) A facility operator, cable operator, or system operator may not intentionally make a false or fraudulent report required under this Act.

(d) A system operator, cable operator, or facility operator is not responsible for payment of taxes under this Act..

Sec. 13. TAX ADMINISTRATION. (a) The commissioner shall provide forms for reporting under Sections 11, 11A, 11B, 11C, and 12 of this Act.

(b) The department may audit reports filed under Sections 11, 11A, 11B, 11C, and 12 of this Act.

(c) The commissioner by rule shall determine a specified percentage of the total revenue obtained from the taxes imposed by Sections 11, 11A, 11B, 11C, and 12 of this Act not to exceed the lesser of 20 percent of the total annual revenues or \$50,000 annually to be deposited into a separate account in the general revenue fund to be known as the Texas Boxing and Wrestling Sports Fund. The remainder of the revenue obtained from the taxes imposed by this Act shall be deposited to the credit of the General Revenue Fund.

SECTION 9. The Texas Boxing Act is amended by adding Article 3 as follows:

ARTICLE 3: ULTIMATE FIGHTING PROHIBITED

(a) Ultimate or extreme fighting is prohibited in the State of Texas.

(b) Anyone who promotes or participates in ultimate fighting, or serves as an agent, principal partner, publicist, vendor, producer, referee, or contractor of or for ultimate fighting is guilty of a class A misdemeanor.

(c) Medical personnel who administer to, treats or assists any participant of ultimate or extreme fighting are exempt from this section.

(d) No licenses or permits will be issued for ultimate fighting or similar contests. No person, partnership, organization, corporation, limited liability company or association shall conduct or participate in any ultimate fighting or similar contests.

SECTION 10. Section 4(e), Texas Boxing and Wrestling Act is repealed.

SECTION 11. This Act takes effect September 1, 1997 except as provided by subsections (c) and (d).

(b) The commissioner shall adopt rules for licensing wrestlers, promoters and managers and under the Texas Boxing and Wrestling Act no later than Dec. 1, 1997.

(c) A person who is required to be licensed as a professional wrestlers, managers and promoters and boxing promoters are not required to obtain a license until March 1, 1998.

(d) The taxes imposed on the sale of television and pay-per-view rights by Sections 11B and 11C, Texas Boxing and Wrestling Act, apply only to boxing and wrestling events held on or after Jan. 1, 1998.

SECTION 12. EMERGENCY CLAUSE.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute bill adds that a boxing or wrestling promoter may not knowingly or intentionally make a false or fraudulent report required under this Act. In CSHB 2538 Section 6 adds subsection (d) to Article 8501-1, Vernon's Texas Civil Statutes to state that it is a violation of the Act to furnish false information on a license application. CSHB 2538 sets down rules for payment of 3 percent gross receipts tax and the time table in which it must be paid. Also requires that the lesser of \$50,000 or 20 percent of annual revenues generated by the new promoter and licensing fees will be deposited into a separate account in the general revenue fund to be known as the Texas Boxing and Wrestling Sports Fund. The remainder of the revenue will be deposited to the credit of the General Revenue Fund. CSHB 2538 adds a new section 11. The substitute takes effect on Sept. 1, 1997 with three exceptions: rules for licensing must be adopted by the

NDT C.S.H.B. 2538 75(R)

commissioner no later than Dec. 1, 1997; anyone who is required to licensed under the Act is not required to do so until March 1, 1998; and, the taxes imposed on the sale of television and pay-per-view rights apply only to boxing and wrestling events held on or after Jan. 1, 1998. The substitute decreases the penalties for violation of the Act from a Class A misdemeanor to a Class B misdemeanor. The civil penalties for violation of the Act are not to exceed \$10,000 in the substitute as compared with \$1,000 in the original bill. The definitions of professional wrestler, professional wrestling manager, professional boxing manager are added. Section 8 of the original is now Section 9 and Section 12 is the Emergency Clause. In the CSHB Section 8 (13), Tax Administration, has been added. Section 4(d) and Section 6(c) have been deleted.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

April 21, 1997

To: Honorable Ron Wilson, Chair
Committee on Licensing & Administrative
Procedures
House
Austin, Texas

IN RE: House Bill No. 2538,
Committee Report 1st House,
Substituted
By: Oliveira

From: John Keel, Director

In response to your request for a Fiscal Note on HB2538 (Relating to the regulation of boxing and wrestling.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB2538-Committee Report 1st House, Substituted

Implementing the provisions of the bill would result in a net positive impact of \$637,714 to General Revenue Related Funds through the biennium ending August 31, 1999.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Fiscal Analysis

This bill would amend the Texas Boxing and Wrestling Act (Article 8501-1, V.T.C.S) to require the Department of Licensing and Regulation (TDLR) to regulate wrestling contests and promotion. The provisions of this bill would require licensure of those involved in wrestling contests and promotion.

The bill would also allow TDLR to assess a 3 percent gross receipts tax on live contests, closed circuit telecasts, television rights, and pay-per-view events. The 3 percent gross receipts tax on television rights and pay-per-view events would be capped at \$50,000 per person. The bill would also require the Comptroller to deposit the lesser of 20% of the gross receipts tax or \$50,000 annually into the Texas Boxing

and Wrestling Sports Fund to be used for grant awards. According to TDLR, this tax would generate a revenue of \$471,240 per year of which \$50,000 would be deposited into the Texas Boxing and Wrestling Sports Fund.

According to TDLR, in order to implement the provisions of the bill, TDLR would need to hire one Administrative Technician and one Inspector. The total cost to General Revenue to hire the two FTEs would be \$90,423 in FY 1998 and \$78,343 per year thereafter, including equipment and benefits. In addition, other inspectors would be hired on an as-needed contractual basis, at a cost to General Revenue of \$18,000 per year.

Methodology

The following assumptions were used when estimating the revenue gain to General Revenue:

(1) Licenses would be required for 117 individuals including wrestling promoters, wrestling managers, wrestling matchmakers, referees, time keepers, and professional wrestlers.

(2) TDLR would change the following annual license fees: \$1,000 for promoters; \$150 for managers and matchmakers; \$50 for referees; \$20 for timekeepers; and \$30 for professional wrestlers.

(3) \$457,100 per year would be generated in gross receipts tax revenue.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Five Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund	Probable Revenue Gain/(Loss) from General Revenue Fund	Probable Revenue Gain/(Loss) from Texas Boxing and Wrestling Sports Fund	Change in Number of State Employees from FY 1997
	0001	0001		
1998	(\$108,423)	\$421,240	\$50,000	2.0
1999	(96,343)	421,240	50,000	2.0
2000	(96,343)	421,240	50,000	2.0
2001	(96,343)	421,240	50,000	2.0
2002	(96,343)	421,240	50,000	2.0

Net Impact on General Revenue Related Funds:

The probable fiscal implication to General Revenue related funds during each of the first five years is estimated as follows:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	\$312,817
1999	324,897
2000	324,897
2001	324,897
2002	324,897

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government is anticipated.

Source: Agencies:

LBB Staff: JK, TH, BK

LEGISLATIVE BUDGET BOARD

Austin, Texas

**FISCAL NOTE
75th Regular Session**

April 14, 1997

To: Honorable Ron Wilson, Chair
Committee on Licensing & Administrative
Procedures
House
Austin, Texas

IN RE: House Bill No. 2538
By: Oliveira

From: John Keel, Director

In response to your request for a Fiscal Note on HB2538 (Relating to the regulation of boxing and wrestling.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB2538-As Introduced

Implementing the provisions of the bill would result in a net positive impact of \$794,789 to General Revenue Related Funds through the biennium ending August 31, 1999.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Fiscal Analysis

This bill amends the Texas Boxing and Wrestling Act (Article 8501-1, V.T.C.S) by transferring the regulation for wrestling contests and promotion from the Secretary of State to the Department of Licensing and Regulation. Currently, registration is required by the Secretary of State. The provisions of this bill would require licensure of those involved in wrestling contests and promotion. The bill also provides for a 3 percent gross receipts tax on live contests, closed circuit telecasts, television rights, and pay-per-view events. This bill would also provide for strict prohibition of events classified as "ultimate" or "extreme" fighting.

Methodology

It is assumed that licenses would be required for 117 individuals including wrestling

promoters, wrestling managers, wrestling matchmakers, referees, time keepers, and professional wrestlers and that department would change the following fees to cover costs: annual license fees of \$1,000 for promoters; \$150 for managers and matchmakers; \$50 for referees; \$20 for timekeepers; and \$30 for professional wrestlers. It is also assumed that \$557,000 per year would be generated in gross receipts tax revenue. The department would require 1 inspector and a related support employee to implement the provisions of this bill. Other inspectors would be contracted in circumstances where single or multiple events require additional inspection.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Five Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 0001	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Change in Number of State Employees from FY 1997
1998	(\$113,423)	\$521,240	2.0
1999	(101,343)	488,315	2.0
2000	(101,343)	488,315	2.0
2001	(101,343)	488,315	2.0
2002	(101,343)	488,315	2.0

Net Impact on General Revenue Related Funds:

The probable fiscal implication to General Revenue related funds during each of the first five years is estimated as follows:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	\$407,817
1999	386,972
2000	386,972
2001	386,972
2002	386,972

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Source: Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, TH, RA

WITNESS LIST

HB 2538
HOUSE COMMITTEE REPORT
Licensing & Administrative Procedures Committee

April 14, 1997 - 10:30A

Committee Substitute (Wilson)

On: David Gunn (TDLR)
Judge Don Jackson (Self)
Richard Cole (TDLR)

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SUMMARY OF COMMITTEE ACTION

HB 2538

April 14, 1997 10:30AM
Considered in public hearing
Committee substitute considered in committee
Testimony taken in committee
Reported favorably as substituted

for chief clerk use only

Bill or Resolution Number: H.B. 2538

JOINT AUTHOR AUTHORIZATION

As primary author of H.B. 2538 I hereby authorize the following joint author(s):
(bill or resolution #)

Ron Wilson
printed name of joint author #1

[Signature]
signature of joint author #1

APR 10 1997

printed name of joint author #2

signature of joint author #2

printed name of joint author #3

signature of joint author #3

printed name of joint author #4

signature of joint author #4

Roni O. Oliveira
signature of primary author

APR 10 1997
date

H.B. No.

2538

A BILL TO BE ENTITLED
AN ACT

By

Rene D. Dineen

relating to the regulation of boxing and wrestling

MAR 11 1997

Filed with the Chief Clerk

MAR 13 1997

Read first time and referred to Committee on Licensing & Administrative Procedures

APR 14 1997

Reported ___ favorably ~~(as amended)~~
(as substituted)

MAY 5 1997

Sent to Committee on (Calendars)
~~(Local & Consent Calendars)~~

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of ___ yeas, ___ nays, ___ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of ___ yeas, ___ nays, ___ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of ___ yeas, ___ nays, ___ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(___ yeas, ___ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(___ yeas, ___ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of ___ yeas, ___ nays

Read third time, _____, and passed by (a viva voce vote)
(___ yeas, ___ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)